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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT PAPER NUMBER

3624

DATE MAILED: 08/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/593,106

Applicant(s)

WILLIAMS ET AL.

Examiner

Narayanswamy Subramanian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 3,27,30 and 42-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-18, 21-26, 28,29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) 19 and 20 is/are objected to.
- 8) ☒ Claim(s) 3,27,30 and 42-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Original claims 1-52 have been examined. The restrictions, objections and rejections are stated below.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The abstract provided exceeds 150 words. Correction is required.

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Invention I: The claims 1, 2, 4 – 26, 28, 29 and 31 – 41 refer to a computerized system and a process for computerized mortgage application, qualification and approval.

Invention II: The claims 3, 27, 30 and 42-52 refer to a system and a computerized process for pricing and facilitating the sale of mortgage loans to the secondary market purchasers.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are targeted toward different customers, have different functions and have different

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utility. Invention I is geared toward facilitating and structuring the lending process where the end product (the loan) could be retained by the lending institution. Invention II is geared toward pricing and selling the loan in the secondary market and raising capital for the lending institution. The customers for invention I are the potential borrowers. The customers for invention II are the buyers in the secondary market.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. David Luetzgen on August 13, 2002 a provisional election was made without traverse to prosecute the invention of Online Mortgage Qualification and Application System and Process claims 1, 2, 4 – 26, 28, 29, 31 – 41. Affirmation of this election must be made by the applicants in replying to this office action. Claims 3, 27, 30 and 42-52 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicant is respectfully advised to cancel the non-elected claims in response to this office action.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 4-18, 21-26, 28 and 31-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Kunzle et al (US Patent 2002/0023051).

With reference to Claims 1 and 28, Kunzle discloses a method and means of qualifying and applying for a loan online, comprising the steps of: obtaining financial information concerning a potential borrower (See Kunzle Page 6 Paragraph 53); determining the likelihood that said potential borrower will be approved for a loan; evaluating a loan application for said loan, said loan application including said financial information and specifying a loan principal; underwriting said loan to determine an approval status of said borrower for said loan and for other loans based on preselected underwriting guidelines (See Kunzle Page 6 Paragraph 59 – Page 7 Paragraph 62); and calculating a customized interest rate based on said financial information for presentation to said borrower for said loan and for each of said other loans for which said borrower is approved (See Kunzle Page 7 Paragraph 63). The approval or rejection process is interpreted to include the step of determining the likelihood of the loan approval for a potential borrower.

With reference to Claims 4 and 5, Kunzle discloses a method of claim 1, wherein the loan approval process is based on a single set of data obtained from the customer. (See Kunzle Page 1

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Paragraph 7 and Claim 1). The single set of data obtained from the customer is understood to mean non-reliance on a credit report or a collateral appraisal.

With reference to Claims 6 and 31, Kunzle discloses a method and means of claims 1 and 28 respectively, wherein said step of evaluating said loan application involves the step of obtaining a credit report on said potential borrower. (See Kunzle Page 2 Paragraph 24 and Claim 5).

With reference to Claims 7, 8, 32 and 33, Kunzle discloses a method and means of claims 1 and 28 respectively, wherein said step of underwriting said loan involves the step of retrieving and verifying information regarding the collateral. (See Kunzle Figure 3 and Claims 9 and 10) The steps of retrieving and verifying information regarding the collateral is interpreted to include the steps of determining an appropriate level of collateral appraisal field work to be performed and determining said appropriate level of collateral appraisal field work is one of waived, exterior-only collateral inspection and interior and exterior collateral inspection.

With reference to Claims 9, 10, 34 and 35, Kunzle discloses a method and means of claims 1 and 28 respectively, wherein said loan is a home mortgage loan and the customer provides information about the purpose of the loan. (See Kunzle Page 3 Paragraph 30) The purpose of the loan is interpreted to include mortgage refinance also.

With reference to Claims 11 and 36, Kunzle discloses a method and means of approving a loan for a potential borrower comprising the steps of: obtaining financial information concerning a potential borrower and a loan (See Kunzle Page 6 Paragraph 53); determining if said potential borrower and said loan meet preselected underwriting guidelines of the lending institution based on said financial information; if it is determined that at least one of said

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borrower and said loan does not meet said preselected guidelines, revising said financial information concerning said potential borrower and said loan and determining if said guidelines are met based on said revised financial information; approving or rejecting the loan (See Kunzle Page 6 Paragraph 59 – Page 7 Paragraph 62) and presenting to said potential borrower the approval or rejection for said loan (See Kunzle Page 7 Paragraph 63). The approval or rejection decision process is interpreted to include the steps of calculating a proxy credit score based on said financial information if it is determined that said borrower and said loan meet said pre-selected guidelines; obtaining statistical weights from a look up table; assigning said statistical weights to pre-selected characteristics of said loan; calculating a probability that said potential borrower will be approved for said loan based on said proxy credit score and said statistical weights. The underwriting guidelines set by the lending institution is interpreted to include the pre-selected underwriting guidelines of a secondary mortgage market purchaser. The approval or rejection decision is interpreted to include the step of determining the likelihood that a potential borrower will be approved for a loan.

With reference to Claims 12, 13, 37 and 38, Kunzle discloses a method and means of claims 11 and 36 respectively, wherein said step of obtaining financial information concerning a potential borrower and a loan involves soliciting responses from said potential borrower to a questionnaire provided over a global computer network, wherein said global computer network is the Internet. (See Kunzle Page 6 Paragraph 52)

With reference to Claims 14 and 39, Kunzle discloses a method and means of claims 11 and 36 respectively, wherein the factors set forth in the scorecard also reflect history of credit delinquencies of the potential borrower. (See Kunzle Page 6 Paragraph 57) The process of

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adjusting a credit score for a history of past delinquencies is interpreted to include the step of lowering the proxy credit score if said potential borrower has a history of credit delinquencies.

With reference to Claims 15, 16, 40 and 41, Kunzle discloses a method and means of claims 11 and 36 respectively, wherein said loan is a home mortgage loan and the customer provides information about the purpose of the loan. (See Kunzle Page 3 Paragraph 30) The purpose of the loan is interpreted to include mortgage refinance also.

With reference to Claim 17, Kunzle discloses a method of underwriting an online loan application comprising the steps of using pre-determined underwriting guidelines set by the lending institution, refining the terms and making adjustments based on a product adjusting module and making iterations to recommend a loan product or to reject the application. (See Kunzle Page 7 Paragraph 60 –64. The underwriting steps are interpreted to include retrieving an interest rate that is calculated to be specific to a potential borrower and a loan; retrieving a yield/point trade-off schedule for said loan; determining if said potential borrower is approved for said loan at said specific interest rate;

if it is determined that said potential borrower is approved for said loan at said specific interest rate, (i) determining minimum verification documentation, (ii) determining selected loan underwriting parameters, (iii) determining pricing parameters, and (iv) tailoring said yield/point trade-off schedule for said loan based on said pricing parameters;

if it is determined that said potential borrower is not approved for said loan at said specific interest rate, (i) determining a maximum loan amount for approval, (ii) determining a monthly debt reduction required for approval, and (iii) determining if said potential borrower meets preselected income requirements for alternative loans; outputting underwriting findings

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and, if the potential borrower is approved, outputting interest rate quotes; and repeating the foregoing steps for other loans.

With reference to Claim 18, Kunzle discloses a method of claim 17, wherein said minimum verification documentation is directed to at least one of minimum assets to verify (See Kunzle Page 7 Paragraph 62) and information retrieved from other sources. (See Kunzle Page 1 Paragraph 11) The information retrieved from other sources is interpreted to include minimum income to verify.

With reference to Claims 21 and 22, Kunzle discloses a method of claims 17, wherein said loan is a home mortgage loan and the customer provides information about the purpose of the loan. (See Kunzle Page 3 Paragraph 30) The purpose of the loan is interpreted to include mortgage refinance also.

With reference to Claims 23 and 26, Kunzle discloses a method of determining an interest rate quote and points for a loan that are specific to a borrower, comprising the steps of: inputting borrower and loan information; retrieving underwriting characteristics and other factors determining the risk-based pricing. (See Kunzle Page 6 Paragraph 59 – Page 7 Paragraph 64) The step of risk-based pricing is interpreted to include retrieving a required yield from a current yield/point trade-off schedule; and calculating adjustments to said required yield associated with said loan based on at least one of (i) credit risk posed by said borrower, (ii) collateral risk associated with not requiring a collateral appraisal, (iii) loan-to-value ratio, and (iv) loan purpose. The term “borrower” is interpreted to include a hypothetical borrower also.

With reference to Claims 24 and 25, Kunzle discloses a method of claims 23, wherein said loan is a home mortgage loan and the customer provides information about the purpose of

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the loan. (See Kunzle Page 3 Paragraph 30) The purpose of the loan is interpreted to include mortgage refinance also.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunzle et al (US Patent 2002/0023051).

With reference to Claims 2 and 29, discloses a method and means of qualifying and applying for a loan online of claims 1 and 28 respectively as discussed above. Kunzle also teaches the steps of selecting one of said loan and other loans (See Kunzle Page 7 Paragraph 64) and accepting the selection made by the borrower (See Kunzle Page 7 Paragraph 65 and 66). The acceptance of the selection made by the borrower is interpreted to include the step of locking in said customized interest rate for said selected loan.

Kunzle fails to teach the step of aggregating closing costs into said loan principal of said selected loan.

Official notice is taken that it is old and well known in the art to aggregate closing costs into a loan principal of said loan. The aggregation reduces the funds needed to make a down payment at the time of loan origination or refinancing and helps borrowers in getting the loan.

It would have been obvious to one with ordinary skill in the art at the time of the current invention to combine the step of aggregating closing costs into the loan principal of the selected loan to the invention of Kunzle. The combination of the disclosures taken as a whole, suggests that borrowers would have benefited from getting the loan with a smaller down payment and lenders would have benefited from servicing more customers because of increased demand.

Allowable Subject Matter

9. Claims 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(a) Jeffrey A. Norris (US Patent 6105007) (August 15, 200) Automatic Financial Account Processing System

(b) Dykstra et al (US Patent 6029149)(February 22, 2000) Lender Direct Credit Evaluation and Loan Processing System.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or

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Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703) 305-7687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian

August 17, 2002